

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON**

RICHARD J. GIBSON,

Petitioner,

: Case No. 3:22-cv-173

- vs -

District Judge Michael J. Newman
Magistrate Judge Michael R. Merz

WARDEN, London Correctional
Institution,

:

Respondent.

DECISION AND ORDER DENYING MOTION TO SUPPLEMENT

This habeas corpus case is before the Court on Petitioner's Motion to Supplement Summary Judgment with New Supporting Evidence (ECF No. 36).

Petitioner begins the Motion by

request[ing] this Honorable Court to all me to provide supporting evidence I just received from court appointed counsel Lucas Wilder August 17, 2023. I had sent several different queries to him as was shown by the prior affidavits sent to this court with the Motion for Summary Judgment, see EXHIBITS G and H.

Id. at PageID 536. There follows some twenty pages of Petitioner's repeating his argument about how evidence of his penile piercing would have persuaded the jury and should persuade this Court that he is actually innocent. However the document has no attached Exhibits G or H or any document purporting to have been provided Attorney Lucas Wilder.

Construing the Motion as a motion to expand the record under Habeas Rule 7, it is denied for failure to provide the documents sought to be added. Having read the Motion in its entirety,

the Magistrate Judge remains persuaded Petitioner is not entitled to summary judgment for the reasons already given in the Report and Recommendations filed August 18, 2023 (ECF No. 23). If the Petitioner believes that Report is in error, he continues to have time to file objections; his deadline for doing so is September 5, 2023.

The Motion to Supplement is DENIED.

August 23, 2023.

s/ *Michael R. Merz*
United States Magistrate Judge